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E-filed 10/21/05

5 Attorneys for Defendants HIGHMARK LIFE INSURANCE
 6 COMPANY; HIGHMARK LIFE AND CASUALTY GROUP;
 7 HIGHMARK LIFE INSURANCE COMPANY OF NEW YORK;
 HIGHMARK CASUALTY INSURANCE COMPANY; and
 HIGHMARK SERVICES COMPANY

8
 9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

11 JOHN GREG ALLINGTON,

No. C03 01911 JF ARB

12 Plaintiff,

**STIPULATION AND [PROPOSED] ORDER
 TO CONTINUE**

13 v.

Judge: Hon. Jeremy Fogel
 Courtroom: 3

14 HIGHMARK LIFE INSURANCE
 15 COMPANY; HIGHMARK LIFE AND
 16 CASUALTY GROUP; HIGHMARK LIFE
 17 INSURANCE COMPANY OF NEW
 18 YORK; HIGHMARK CASUALTY
 19 INSURANCE COMPANY; HIGHMARK
 SERVICES COMPANY; BUSINESS
 RESOURCE GROUP; THREE CITIES
 RESEARCH, INC.; UNUM LIFE
 INSURANCE COMPANY OF
 AMERICA; and DOES 1 - 50,

Date Action Filed: April 25, 2003

20 Defendants.

21 The parties named hereunder, by their attorneys of record, stipulate to continue this matter
 22 until further notice due to Mr. Allington's anticipated disability claim. This Stipulation and
 23 [Proposed] Order is supported by good cause because a Case Management Conference at this
 24 point in the litigation would be premature given the present lack of controversy.

25 At the last Case Management Conference on June 17, 2005, the Court inquired about the
 26 payment for mental nervous disability from May 1, 2004 to October 1, 2004. Highmark has paid
 27 Mr. Allington for that period.
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 GRAY CARY LLP

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STIPULATION TO CONTINUE

C03 01911 JF ARB

1 Mr. Allington alleges a recurrence of the cancer. In light of the anticipated disability
2 claim, this matter should be continued for a period long enough to allow Highmark to obtain the
3 necessary documentation and process a full review. If and when Mr. Allington submits a
4 disability claim, Highmark will evaluate the claim in the normal course of business. Due to the
5 time period required to fully evaluate a disability claim, any Case Management Conference
6 should be set at least 60 days from the date Mr. Allington files a claim.

7 Thus, the parties hereby stipulate to continue this matter until further notice of a filed
8 disability claim.

9 IT IS SO STIPULATED:

10
11 Dated: October 14, 2005

12 By 

13 JEFFREY E. MITCHELL
14 DLA PIPER RUDNICK GRAY CARY LLP
15 Attorneys for Defendants, HIGHMARK LIFE
16 INSURANCE COMPANY; HIGHMARK LIFE AND
17 CASUALTY GROUP; HIGHMARK LIFE
INSURANCE COMPANY OF NEW YORK;
HIGHMARK CASUALTY INSURANCE COMPANY;
and HIGHMARK SERVICES COMPANY

18 Dated: October 14, 2005

19 By 

20 EDWARD L. NILAND
21 Attorney for Plaintiff, JOHN GREG ALLINGTON

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ORDER

Pursuant to stipulation, it is ORDERED that this matter is continued until further notice of a filed disability claim. A case management conference is set for 2/6/06 at 10:30 A.M.

Dated: 10/21/05

/s/electronic signature authorized
The Hon. Jeremy Fogel
UNITED STATES DISTRICT JUDGE

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is DLA Piper Rudnick Gray Cary US LLP, 153 Townsend Street, Suite 800, San Francisco, California 94107-1957. On October 18, 2005, I served the within documents:

STIPULATION AND [PROPOSED] ORDER TO CONTINUE

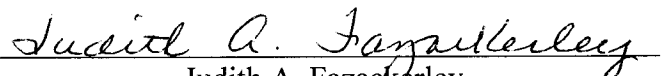
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Edward L. Niland
Niland & Niland
233 Oak Meadow Drive
Los Gatos, CA 95032

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 18, 2005, at San Francisco, California.


Judith A. Fazackerley